

UNITED STATES DISTRICT COURT

District
Middle District of Pennsylvania

Name of Movant
Anthony Braxton

Prisoner No.

10848-067 Case No. 1:CR-01-145-05

Place of Confinement

F.C.I. Fort Dix New Jersey

UNITED STATES OF AMERICA

v.

Anthony Braxton

(name under which convicted)

MOTION

1. Name and location of court which entered the judgment of conviction under attack Middle District of Pennsylvania/Harrisburg, 228 Walnut Street Harrisburg, P.A.
2. Date of judgment of conviction June 26, 2002
3. Length of sentence (10) Ten Years
4. Nature of offense involved (all counts) (2) Counts of Interstate Trafficking

FILED
HARRISBURG

AUG 16 2006

MARY E. DANBREA, CLERK
Per 

DEPUTY CLERK

5. What was your plea? (Check one)

(a) Not guilty
(b) Guilty
(c) Nolo contendere

If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury
(b) Judge only

7. Did you testify at the trial?

Yes No

8. Did you appeal from the judgment of conviction?

Yes No

9. If you did appeal, answer the following:

(a) Name of court _____

(b) Result _____

(c) Date of result _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes No xx

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes No xx

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes No xx

(5) Result _____

(6) Date of result _____

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes No ~~XXX~~
(2) Second petition, etc. Yes No ~~XXX~~

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting the same.

Caution: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (i) or any one of the grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession

- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: Denial of Right of Appeal

One Issue

Supporting FACTS (state *briefly* without citing cases or law)

On June 2nd, 2002 I requested of my attorney that he file a direct appeal on my behalf. Attorney failed to file on my behalf as requested.

B. Ground two: Denial of Effective Assistance of Counsel

(Please see Affidavit in Support of Motion)

Supporting FACTS (state *briefly* without citing cases or law) Failing to file a Santobello v. New York motion on my behalf after refusing to properly pursue the matter in an Ethical & professional manner. Attorney refused to do the necessary research to determine the best approach and whether it would cause more harm then good.

C. Ground three:

Supporting FACTS (state *briefly* without citing cases or law)

D. Ground four: _____

Supporting FACTS (state *briefly* without citing cases or law) _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes No

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing _____ N/A

(b) At arraignment and plea Mr. Daniel Pell 1215 East Market Street, York P.A.

17403

(c) At trial _____ N/A

(d) At sentencing Mr. Danial Pell 1215 East Market Street, York P.A.

17403

(e) On appeal _____ N/A

(f) In any post-conviction proceeding _____ N/A

(g) On appeal from any adverse ruling in a post-conviction proceeding _____ N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes No

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes No

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes No

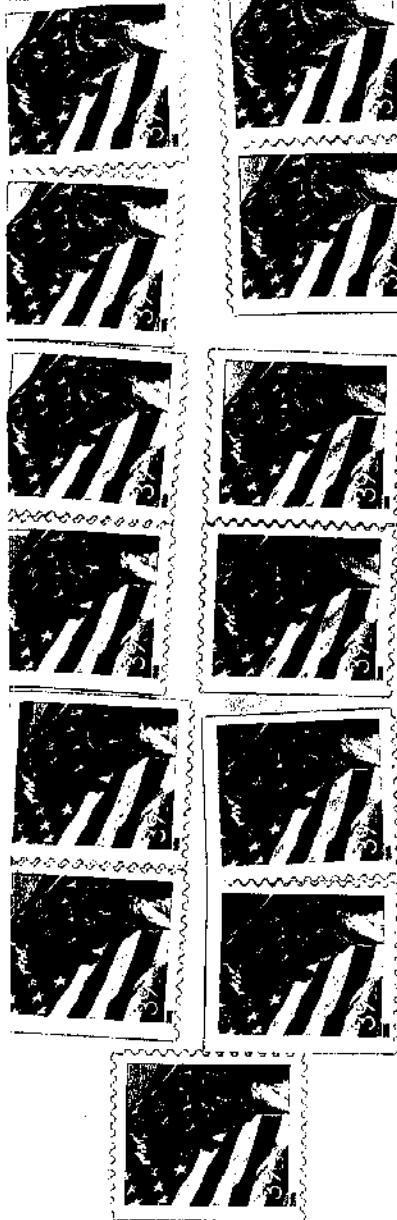
Wherefore, movant prays that the Court grant petitioner relief to which he or she may be entitled in this proceeding.

Signature of Attorney (if any)

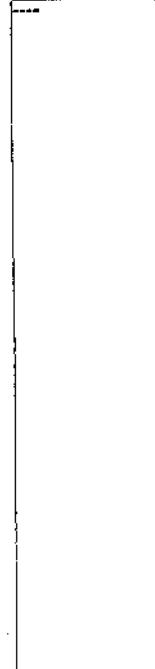
I declare under penalty of perjury that the foregoing is true and correct. Executed on

August 8, 2006
(Date)

Anthony Braxton
Signature of Movant



Anthony Braxton 10848-053
Federal Prison Camp
P.O. Box 1000 / Camp B-Unit
Hart Mtn New Jersey 08640



To: Clerk of the United States District Court
Middle District of Harrisburg
Federal Building 1400 Bosc 11754
228 Walnut Street
Harrisburg, PA 17108-1754

002 2030 0006 8826 0347



Case: 1:06-cv-01591

Assigned To : Caldwell, William W.

Assign. Date : 8/16/2006

Description: Anthony Braxton vs. USA